



AGENDA MEMO

CITY COUNCIL MEETING DATE: OCTOBER 7, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: VAR-32640 - APPLICANT: METROPOLITAN HOMES -
OWNER: ISANI RAZIA AND SARIHAN GUNAY**

***THIS ITEM WAS HELD IN ABEYANCE FROM THE SEPTEMBER 16, 2009 CITY
COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.***

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (5-1/vq-1/ke vote) recommends APPROVAL, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Rezoning (Z-0050-97), Variance (VAR-33015), Special Use Permit (SUP-32639) and Site Development Plan Review (SDR-32638) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow 119 parking spaces where 146 are required on 2.16 acres adjacent to the west side of Decatur Boulevard, approximately 1,000 feet south of Lake Mead Boulevard. The applicant has also submitted applications for a Variance (VAR-33015) to allow a 10-foot setback where Residential Adjacency standards require 132 feet, and to allow a lot coverage of 82% where 50% is the maximum permitted; a Special Use Permit (SUP-32639) for a proposed three-story, 44-foot tall, 151-unit Senior Citizen Apartment Complex with a Waiver to allow apartments on the ground floor where none are permitted; and a Site Development Plan Review (SDR-32638) for a proposed three-story, 44-foot tall, 151-unit Senior Citizen Apartment Complex with 5,460 square feet of commercial space. As part of the Site Development Plan Review, the applicant is requesting an Exception to allow ground cover only (no trees or shrubs) in a required landscape buffer along the north perimeter. Staff is recommending denial of the request because the applicant has created a self-imposed hardship that could be alleviated through alternative site design.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
12/08/97	The City Council approved a request for Rezoning (Z-0050-97) from U (Undeveloped) [SC (Service Commercial) General Plan designation] to C-1 (Limited Commercial) on 2.16 acres located adjacent to the west side of Decatur Boulevard, approximately 1,000 feet south of Lake Mead Boulevard.
02/18/04	The City Council approved requests for a Site Development Plan Review (SDR-3496) for a Senior Housing Complex with a Waiver of the perimeter landscaping requirements, and a Special Use Permit (SUP-3491) for a Senior Apartment Complex on 2.16 acres located adjacent to the west side of Decatur Boulevard, approximately 1,000 feet south of Lake Mead Boulevard. The Planning Commission recommended approval. These entitlements expired 02/18/06 as no Extension of Time was submitted.
11/15/04	A Code Enforcement complaint (#23727) was processed for trash and debris on property located adjacent to the west side of Decatur Boulevard, approximately 1,000 feet south of Lake Mead Boulevard. The complaint was resolved on 01/12/05.
10/10/05	A Code Enforcement complaint (#35225) was processed for trash and debris on property located adjacent to the west side of Decatur Boulevard, approximately 1,000 feet south of Lake Mead Boulevard. The complaint was resolved on 10/12/05.

03/20/06	A Code Enforcement complaint (#39426) was processed for trash and debris on property located adjacent to the west side of Decatur Boulevard, approximately 1,000 feet south of Lake Mead Boulevard. The complaint was resolved on 04/26/06.
02/15/07	A Code Enforcement complaint (#50556) was processed for trash and debris on property located adjacent to the west side of Decatur Boulevard, approximately 1,000 feet south of Lake Mead Boulevard. The complaint was resolved on 04/16/07.
04/18/08	A Code Enforcement complaint (#64758) was processed for trash and debris on property located adjacent to the west side of Decatur Boulevard, approximately 1,000 feet south of Lake Mead Boulevard. The complaint was resolved on 05/19/08.
03/12/09	The Planning Commission recommended approval of companion items VAR-33015, SUP-32639 and SDR-32638 concurrently with this application. The Planning Commission voted 5-1/vq-1/ke to recommend APPROVAL (PC Agenda Item #15/sg).

Related Building Permits/Business Licenses

There are no related building permits or business licenses associated with the site.

Pre-Application Meeting

01/07/09	A pre-application meeting was held to discuss the requirements for applications for a Site Development Plan Review, a Special Use Permit and two Variances. Issues discussed included the minimum requirements for a Senior Apartment use, parking requirements and development standards.
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Neighborhood Meeting

A neighborhood meeting was neither required nor held for this application.

Field Check

01/21/09	A field check was conducted by staff. The subject site is a vacant, undeveloped lot with an unpermitted chain link fence at the east perimeter and a portion of the north perimeter, which is topped with barb wire. There was assorted trash and debris at the site.
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<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	2.16 Acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	SC (Service Commercial)	U (Undeveloped) Zone [SC (Service Commercial) General Plan designation] Under Resolution of Intent to C-1 (Limited Commercial)
North	Mini-Storage Facility	SC (Service Commercial)	C-1 (Limited Commercial)
	Wireless Communications Facility	RN (Rural Neighborhood) [Clark County]	C-1 (Local Business) [Clark County]
South	Apartments	SC (Service Commercial)	R-3 (Medium Density Residential)
	Undeveloped	RN (Rural Neighborhood) [Clark County]	R-E (Rural Estates Residential) [Clark County]
East	Condominiums	M (Medium Density Residential)	R-3 (Medium Density Residential)
West	Undeveloped	RN (Rural Neighborhood) [Clark County]	R-E (Rural Estates Residential) [Clark County]

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O (Airport Overlay) District (70 Feet)	X		Y
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Senior Apartments	151 Units	0.75 / Unit	114				
General Retail	5460 SF	1 / 175	32				
SubTotal			146				
TOTAL			141	5	114	5	N*
Loading Spaces		1 / Less Than 10,000 SF	1		1		Y
Percent Deviation					19%		

**The applicant has submitted this request for a Variance to allow 119 parking spaces where 146 are required, a 19% deviation.*

ANALYSIS

This is a request for a Variance to allow 119 parking spaces where 146 are required on 2.16 acres adjacent to the west side of Decatur Boulevard, approximately 1,000 feet south of Lake Mead Boulevard. This Variance is related to an associated request for a Site Development Plan Review (SDR-32638) for a proposed three-story, 44-foot tall, 151-unit Senior Citizen Apartment Complex with 5,460 square feet of commercial space, with parking for the site provided on the ground floor in a garage, located under the apartment complex. The 119 parking spaces provided on the site represent a 19% deviation from the 146 parking spaces required to meet the minimum standards of Title 19.04. This Variance, combined with an associated Variance for lot coverage and setback requirements and a Waiver of a minimum Special Use Permit requirement prohibiting the location of apartments on the ground floor indicate that the site, as proposed, will be overbuilt. Alternative site design or a project of smaller scope would alleviate the need for this Variance; therefore, staff is recommending denial of the request as the applicant has created a self-imposed hardship by proposing to overbuild the site.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing to overbuild the site. Alternative site design would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

PLANNING COMMISSION ACTION

There were three speakers in opposition at the Planning Commission. A Petition was submitted at the meeting.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

12

ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 390 by City Clerk

APPROVALS 1

PROTESTS 0